EPA-UDEQ FY 2017 MIDYEAR AGENDA
4 August 2016; 1-3 p.m.

1:00 – 1:10 Welcome and Introductions – Shaun McGrath and Alan Matheson

Program Issues

1) Environmental Response and Remediation (20 minutes)

1:10 – 1:20 **ER&R1:** 17% cut in Superfund Pipeline funded activities (p.2)
Hans Millican/Martin Hestmark

1:20-1:30 **ER&R2:** Allocation formula for the LUSTTrust and Prevention grant amounts (p. 3-4)
Therron Blatter/Nancy Morlock

2) Water Quality: Walt Baker (70 minutes)

1:30-1:50 **WQ1:** The upcoming submission of the 2016 IR and the proposed listing of Utah Lake for violations of Utah's narrative standard for recreation (p. 5-7)
Walt Baker/Ayn Schmit

1:50-1:55 **WQ 2:** Implementation of a peer review process (p.7)
Walt Baker/Sarah Bahrman

1:55-2:10 **WQ3:** The pending implementation of EPA's 2013 ammonia criteria (p.8-9)
Walt Baker/Ayn Schmit

2:10-2:15 **WQ4:** Cooperation on monitoring and communication of the Gold King Mine spill under Objective A (EPA) and Objective B (Utah) work elements (p.9)
Walt Baker/Shaun McGrath

2:15-2:30 **WQ5:** Utah's Nutrient Strategy and EPA's role/interest (p.9-10)
Walt Baker/Ayn Schmit

2:30-2:35 **WQ6:** Utah's draft of an expedited settlement agreement approach to water quality violations (p.10) Walt Baker/Suzanne Bohan

2:35-2:40 **WQ7:** Utah's Technology Based Phosphorus Effluent Limit Rule (p.10-11)
Walt Baker/Sarah Bahrman

2:40-2:50 **3) Drinking Water: Ken Bousfield (10 minutes)**

DW1: What we're doing to address lead contamination issues in Utah (p.11-12)
Ken Bousfield/Sarah Barhman

2:50-3:00 **4) Air Quality: Bryce Bird and Brock LeBaron (10 minutes):**

AP1 and AP2: Timing of PM and Uintah Basin ozone actions (p. 12-15)
Bryce Bird and Brock LeBaron/Monica Morales

CERCLA/UST (Environmental Response and Remediation)

ER&R1: 17% cut in Superfund Pipeline funded activities: Hans Millican/Martin Hestmark

Issue: The State of Utah, UDEQ, submitted a FY16 Block Grant (pipeline) request of $736,450.00.

Based upon the region's available budget, UDEQ received $611,254.00 in pipeline funds, which translates to 83% of the State's request.

Background: Region 8's annual baseline pipeline budget has decreased by more than $300,000 annually since FY13. Historically, the region has, and hopes to continue, providing the states (Colorado, Utah, Montana and South Dakota) with ~20 percent of the region's baseline regional pipeline budget.

These reductions in the pipeline budget have impacted the regions ability to fully fund on-going and new start remedial investigations/feasibility studies, remedial designs and technical assistance grants. Our inability to fully fund Region 8 led work has also impacted our ability to fully fund state requests.

The region's inability to fully fund the each state's requests has led to productive discussions regarding work priorities. Specifically, Utah has raised concerns regarding their site assessment program. EPA and UDEQ have worked together to identify high priority site work, complete important on-going assessments, and slow down work low priority sites.

Update: The Support Program Manager contacted all 4 states and let them know that we would not be able to fulfill their entire budget request and shared how the funds were allocated. The states individually chose how they wanted to have this money distributed across their core program (funds state resources/training), site assessment program (for those sites where state has taken the lead) and management assistance (funds state activities as participants at EPA lead sites).

Contact: Russ Leclerc 312-6693

ER&R2: UST/LUST Grant Allocation Formula: Therron Blatter/Nancy Morlock

Background:

- In FY15, as a result of new allocation formulas, EPA's Office of Underground Storage Tanks (OUST) significantly reduced the Leaking Underground Storage Tank (LUST) prevention and LUST cleanup grant funding allocations to Region 8.
- The new allocation formulas were initially developed in FY12 and were intended to be phased in over two years, FY13 and FY14. However, a congressional representative placed a rider on the budget bill that required OUST to revert to the previous allocation formulas in FY14. Thus, the two year phase-in period was never fully implemented. Subsequently in FY15, OUST moved forward with complete implementation of the new allocation formulas.
- The new allocation formulas were developed in response to reductions in the national pool of LUST funding and OUST's desire to focus limited resources towards meeting national program goals.
    - LUST Cleanup: the new formula focuses on addressing the backlog of petroleum releases. The new formula also eliminated the bonus pool that rewarded states for cleaning up LUST releases.

    - LUST Prevention: the new formula focuses on the three year inspection cycle at active gas stations. The new LUST prevention allocation formula favored states with a larger universe of USTs.
- Overall, the new allocation formula significantly benefits states with larger Underground Storage Tank (UST) populations. Because Region 8 has a relatively smaller population, the Region's FY15 LUST prevention and LUST cleanup funds were reduced by approximately 10% and 17%, respectively, as compared to our FY14 allocation. In FY16, Region 8 actually had a slight increase from FY15 in LUST prevention and LUST cleanup funds by 3% and 6% respectively. The new formula is in place for the indefinite future.
- Region 8 receives a total allocation from OUST which includes a breakdown of funding per state. The Region has some discretion to weigh other factors to balance the allocation before negotiating the final funding amount with the states. Such factors include: emergency cleanups, state improvement initiatives, or inability to spend previous year's funding. This discretion has helped us soften the reduction of funds that all of our states have felt since the new allocation formula was instituted. But larger states like UT and CO have seen $200K - $400K reductions over the last couple years.
- OUST invited ASTSWMO to participate in the development of new allocation formulas. ATSWMO declined as they did not want to insert themselves in a battle between states.

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- The tables below summarize the funding level changes over the past 5 years.

	LUST Cleanup				LUST Prevention				
FY	UT - National Allocation	UT - Revised Allocation	Regional	National	UT - National Allocation	UT - Revised Allocation	Regional	National	Allocation Formula
2012	$ 786,000	$ 806,000	$ 3,984,000	$ 58,956,000	$ 357,000	$ 423,200	$ 2,096,000	$ 29,957,000	OLD
2013	$ 722,000	$ 849,207	$ 3,636,000	$ 55,126,000	$ 348,000	$ 402,162	$ 2,055,000	$ 28,553,000	50/50
2014	$ 718,814	$ 898,750	$ 3,692,564	$ 56,126,000	$ 354,000	$ 435,000	$ 2,101,000	$ 25,540,000	OLD
2015	$ 611,000	$ 641,000	$ 3,075,000	$ 55,040,000	$ 327,000	$ 360,184	$ 1,893,000	$ 25,295,000	NEW
2016	$ 612,000	$ 689,000	$ 3,269,000	$ 55,040,000	$ 327,000	$ 335,670	$ 1,944,000	$ 25,281,000	NEW

	PERCENTAGE CHANGE FROM PREVIOUS YEAR							
	LUST Cleanup				LUST Prevention			
FY	UT National Allocation	UT Allocation	Regional Allocation	National Allocation	UT National Allocation	UT Allocation	Regional Allocation	National Allocation
2013	-8%	5%	-9%	-6%	-3%	-5%	-2%	-5%
2014	0%	6%	2%	2%	2%	8%	2%	-11%
2015	-15%	-29%	-17%	-2%	-8%	-17%	-10%	-1%
2016	0%	7%	6%	0%	0%	-7%	3%	0%

Contacts: Nancy Morlock, OPRA/RCRP, 312-6421 and Janice Pearson, OPRA/RCRP, 312-6354

Key RA Messages:

- Region 8 appreciates the State's concerns regarding the reduction in UST/LUST grant funding. While we are unable to change the national allocation formula, we have been looking for opportunities to mitigate the impacts in Utah. Recently, our Resource Conservation and Recovery Program identified $77,000 of FY16 funds that are being added to Utah's LUST cleanup grant for FY17 performance period. We anticipate award of this grant by September 30, 2016.
- We look forward to working with Utah in the future to identify opportunities to jointly address UST/LUST issues in the State.

Water Quality

WQ1: Draft UDEQ 2016 Integrated Report: Walt Baker/Ayn Schmit

High-level messages:

1. Kudos for UDEQ's progress on improving their assessment processes and releasing a timely 2016 draft IR
2. EPA supports the listing of Utah Lake for HABs and encourage UDEQ to maintain this listing in the Final IR
3. UDEQ's decision not to list Farmington Bay is inconsistent with Clean Water Act requirements, as the assessment identifies exceedances of the HABs thresholds selected by Utah. In light of that and of recent public concerns about HABs, EPA encourages UDEQ to reconsider listing of Farmington Bay for HABs.

1. Kudos for process improvements and timely submission

Background:

- States submit their 303(d) lists as part of their Section 305(b) reports referred to as Integrated Reports (IRs) that provide a summary of water quality conditions across the state.
- Since 2008, UDEQ has struggled with database and data assessment challenges which have significantly delayed their submittals of IR's and 303(d) lists. Such delays have affected their 2008, 2010, 2012, and 2014 IRs and 303(d) list submissions.
- In the past, EPA received a Notice of Intent (NOI) to sue from Southern Utah Wilderness Alliance (SUWA) for EPA's alleged failure to ensure UDEQ's submission of timely IRs and 303(d) lists. R8 worked with UDEQ to finalize delayed submissions and no suit was brought.
- Since 2014, UDEQ has been working diligently with R8 to address their database, data quality, and data assessment issues and they released their draft 2016 IR for public comment on June 9, 2016.

Key Messages

- R8 greatly appreciates the diligent effort of UDEQ to address their internal data assessment/database challenges such that they have completed and released their 2016 IR and 303(d) list in a timely manner.
- We will continue to support the State's efforts in meeting their CWA deadlines and appreciate the collaborative relationship we have.

2. Utah Lake 303(d) listing for Harmful Algal Bloom Impairment

Background:

- In 2015, Utah Division of Water Quality (UDWQ) developed a recreational use assessment method to identify waters impaired for harmful algal blooms (HABs). Following the methodology, a lake/reservoir is considered impaired if the cyanobacteria cells counts exceed 100,000 cell/ mL for more than one sampling event. This threshold was developed by the World Health Organization (WHO) as a value that indicates impacts to recreational uses.
- As part of their 2016 Integrated Reporting process, the state applied their new HABs assessment method to assess data collected for Utah Lake. In addition to cyanobacteria cell counts, the state is using microcystin (a toxin produced by cyanobacteria) and chlorophyll-a concentrations as additional indicators they are considering to verify the assessment. UDWQ selected a microcystin threshold of > 20 µg/L and chlorophyll-a threshold of 50 µg/L based on WHO recreational use recommendations. As a result, in March 2016, the state proposed to list Utah Lake for recreational use support based on harmful algal blooms.

- UDWQ released the draft IR for public comment on June 9, 2016. The public comment period closes on August 9th.

Key Messages

- R8 received the draft 2016 Integrated Report and is preparing final comments to be delivered to UDEQ by August 9.
- We expect that UDEQ may receive stakeholder comments expressing the desire for UDEQ to not list Utah Lake as impaired by HABs in 2016.
- Given the results of the data assessment completed by UDEQ for Utah Lake, the recent harmful algal blooms occurring in Utah Lake, the recreation advisories, and public attention on this issue, we fully support UDEQ's decision to list Utah Lake as impaired by HABs on the 2016 303(d) list.
- In addition, since Provo Bay (a portion of Utah Lake) was formerly included in the Utah Lake assessment area when the assessment was completed, we encourage UDEQ to apply the listing decision to Provo Bay of Utah Lake as well.

3. Farmington Bay Harmful Algal Bloom Data and R8 Comments

Background:

- The Great Salt Lake (GSL) is a unique, environmentally significant resource that requires special efforts for proper assessment and protection. Currently, the only numeric criterion applicable to the GSL is a selenium criterion. A narrative standard otherwise applies but has been difficult for the state to interpret given the unique characteristics of the Lake (e.g., hypersaline conditions; very shallow). Farmington Bay (an arm of the Great Salt Lake) receives wastewater effluent from dischargers surrounding Salt Lake City.
- Stakeholders have repeatedly raised concerns about eutrophication effects in Farmington Bay and concerns with extensive cyanobacteria blooms. EPA has been working with the state to complete an assessment for Farmington Bay since 2006.
- In 2012, EPA partially approved Utah's 2008/2010 303(d) list and deferred action on UDEQ's decision not to assess data from the Great Salt Lake (GSL) and instead place GSL into category 3 in their Integrated Report (category 3 = insufficient information for an assessment determination). That deferral is still in effect.
- In 2015, Utah Division of Water Quality (UDWQ) developed a recreational use assessment method to identify waters impaired for harmful algal blooms (HABs). Following the methodology, a lake/reservoir is considered impaired if the cyanobacteria cells counts exceed 100,000 cell/ mL for more than one sampling event. This threshold was developed by the World Health Organization (WHO) as a value that indicates impacts to recreational uses.
- As part of their 2016 Integrated Reporting process, the state applied their new HABs assessment method to assess data collected for Utah Lake and Farmington Bay. In addition to cyanobacteria cell counts, the state is using nodularin (a toxin produced by cyanobacteria) and chlorophyll-a concentrations as additional indicators they are considering to verify the assessment. UDWQ selected a nodularin threshold of > 20 µg/L and chlorophyll-a threshold of 50 µg/L based on WHO recreational use recommendations. As a result, in March 2016, the state proposed to list Utah Lake and Farmington Bay as impaired for recreational use support based on harmful algal blooms.
- In early May, stakeholders reminded UDWQ that the state's assessment method indicated they would not assess the Great Salt Lake (and therefore, Farmington Bay). In response, the state included a statement in Chapter 2 saying that "For 2016, this waterbody will not be assessed for 303(d) reporting purposes" referring to Great Salt Lake.
- UDWQ released the draft IR for public comment on June 9, 2016. The public comment period closes on August 9th.

Key Messages

- R8 is preparing final comments on Utah's Draft IR to be delivered to UDEQ by August 9.
- Chapter 6 in the UDEQ's draft 2016 Integrated Report presents an analysis of the Harmful Algal Bloom (HAB) data for Farmington Bay that shows numerous exceedances of the thresholds established in the HABs assessment methodology developed by UDEQ.
- The analysis the UDEQ provides in Chapter 6 of the draft 2016 Integrated Report demonstrates that the recreational use in Farmington Bay is not being attained, and the chapter provides convincing support for a finding of impairment caused by HABs.
- Though we recognize that a single sentence in UDEQ's assessment methodology states that GSL will not be assessed for HABs in 2016, UDEQ's decision not to assess data for GSL appears to be in direct opposition to EPA's regulations at 40 C.F.R. § 130.7(b)(v) that require states to "assemble and evaluate all existing and readily available water quality-related data and information" when developing its 303(d) listings.
- Given the results of the data assessment completed by UDEQ for Farmington Bay, the recent blooms occurring in the Jordan River watershed, and public attention on this issue, we encourage UDEQ to reconsider the decision not to list Farmington Bay on the 2016 303(d) list.

WQ2: Implementation of a peer review process: Walt Baker/Sarah Bahrman

Background:

Western Resource Advocates filed a petition with Region 8 pursuant to 40 C.F.R. § 123.64(b)(1), requesting that EPA withdraw Utah's approved NPDES permit program. WRA alleges that S.B. 110, Utah's recent independent peer review legislation, has created a situation in which Utah can no longer comply with the minimum requirements of CWA § 402 or the requirements for State NPDES permit programs at 40 C.F.R. part 123.

The basis for each of WRA's allegations in its withdrawal petition is S.B. 110, Utah's independent peer review legislation, which was signed into law by the Governor in March. The legislation provides that the Director of the Division of Water Quality (DWQ) must initiate an independent peer review process if a permittee challenges a DWQ proposal. WRA alleges four specific "deficiencies" in the UPDES program created by SB 110. These are:

1. The UPDES program no longer complies with the judicial review requirements of the CWA.
2. The UPDES program no longer complies with the public participation requirement.
3. The UPDES program no longer complies with permitting TBEL requirements.
4. SB 110 violates the MOA between Utah and Region 8.

The Region reviewed UDEQ's proposed administrative rule which is designed to address several of the issues listed above. On July 26, 2016 OPRA Water and ORC met with Walt Baker and staff and verified that the draft regulations address our concerns regarding #1 & 2 above. UDEQ also agreed to address the remaining concerns regarding TBEL requirements (as the legislation is written it appears to allow federal TBELs to be exempted based on the peer review process, which would not meet the federal regulatory requirements). Once this issue is resolved, #4 will not be of concern.

DWQ will share a draft of the proposed regulations with its POTW stakeholder group next Tuesday (August 2, 2016) and the proposed regulations will be reviewed by the State's Water Quality Board on August 24, 2016. The regulations will then be public noticed and the rule could go final mid-October 2016.

Key RA Messages:

- There are 24 (confirmed by HQ) active petitions to withdraw state NPDES programs nationally.
- We appreciate the UDEQ's quick attention to this matter. We are very encouraged that we will be able to resolve the petition with their proposed fixes if it becomes final after the Water Quality Board and public notice process.
- To support the state and underscore the importance of this fix to the Water Quality Board, the region will, 1-Send a letter supporting these draft regulations to the UDEQ Water Director, Walt Baker and 2-submit official comments during the public notice period to the Water Quality Board supporting the regulatory fix. (Note: UDEQ, Region 8, and HQ have consensus on this path forward).

Contacts: Gwen Campbell, Acting Unit Chief Wastewater Unit, 312-6463; Amy Clark, State Oversight Manager UPDES Wastewater Unit, 312-7014; Everett Volk, Attorney ORC, 312-7290.

WQ3: Implementation of EPA's Revised Ammonia Criteria: Walt Baker/Ayn Schmit

Background:

EPA's national recommended water quality criterion for ammonia was revised in 2013. The more stringent updated criterion was intended to protect sensitive species of mussels and snails. The revised criterion should be considered for adoption by states as they conduct their triennial review process, and once adopted by states, would be reflected in more stringent discharge permits for wastewater treatment plants and other facilities. The revised ammonia criteria will present challenges for wastewater dischargers, particularly those with lagoon systems. The cost of upgrading these systems to meet the revised criteria is a significant concern for Region 8 states.

- Utah is undertaking a study to assess the historic and current presence of the sensitive species. It is expected that they will identify several waterbodies that historically supported these species but no longer do. UDEQ and stakeholders will have to determine the appropriate aquatic life use for streams where freshwater mussels have been extirpated. Freshwater mussels provide important ecosystem services that can improve water quality and habitat.
- In preparation for future state adoption of the revised criterion, Region 8 is initiating a project with HQs (with contractor support) to evaluate whether wastewater lagoons may qualify for a multiple discharger variance based on a demonstration of economic hardship.
- EPA Region 8 is working to assist all Region 8 states with this analysis, following the multiple discharger approach currently being developed in the state of Kansas.
- The objective of this Regional effort is to evaluate whether the assumptions used for Kansas will apply within Region 8 and to use regional information to establish a customized cost curve equation that could be used to determine economic hardship in support of a potential variance. Permits for lagoons that do demonstrate economic hardship would still have to identify the highest attainable condition that could be achieved through add-on nutrient removal, seasonal retention, etc.
- The first step in the process is to pull together the information on any lagoons in Region 8 that may be considered for a variance. This information will allow us to evaluate the range and different designs for lagoons across the Region and hopefully develop a cost curve that reflects the population associated with each facility. We anticipate preliminary results of the analysis may be available by the September Region 8

WQS meeting with the states.

Key Message:

- We hope this effort will provide useful information to states and Region 8 and allow us to evaluate the possibility of developing a multiple discharger variance for lagoons that could be implemented as states adopt the 2013 304(a) ammonia criteria.

WQ4: Cooperation on monitoring and communication of the Gold King Mine spill under Objective (EPA) and Objective B (Utah) work elements Walt Baker/Shaun McGrath

No write up needed

WQ5: Utah Nutrient strategy and EPA's Role/Perspective/Position: Walt Baker/Ayn Schmit

Background:

The Division of Water Quality has raised concerns that, since EPA released the Stoner memo in 2011, continued strong EPA leadership on nutrients has been muted or missing. UDWQ feels that this has left the states that stepped-up and took significant actions to address nutrients in a vulnerable position in the face of strong pushback from dischargers, the agricultural community and other stakeholders.

- One concern recently expressed by the Director of DWQ involved the lack of communication regarding upcoming EPA proposal of numeric nutrient criteria for lakes and reservoirs.
- HQs is working on developing criteria for lakes/reservoirs that will complement (not replace) the existing 304(a) criteria. The proposed criteria are being derived using data from the National Lakes Assessment which is more temporally limited than most state datasets. HQs considers the 2016 values as "new and improved" since they are more strongly tied to designated uses than the 2001 ecoregional criteria. There has been **no** discussion of promulgation within EPA. If finalized, as with the previous 304(a) nutrient criteria, these values are intended to offer a frame of reference for states as they develop final numeric nutrient criteria.
- To date, HQs held a June webinar to describe the analytical methods used to derive the proposed numeric nutrient criteria. EPA also briefed ACWA in a call on July 20. Stakeholders will also have an opportunity for review and comment when the document is released in the Federal Register.

Key RA Messages

- Region 8 is appreciative and supportive of UDEQ's progress in reducing nutrient pollution.
  Region 8 has worked to support Utah over the past several years as the state has developed its nutrient strategy. UDEQ is making excellent progress, including adoption of a technology-based total phosphorus limit for permits, development and implementation of a methodology using their narrative standards to identify water quality impairments from harmful algal blooms, the implementation of a new Nonpoint Source Management Plan, and a number of other efforts.
- We recognize that some of these efforts have been a heavy lift in light of stakeholder concerns, and hope that the recent HABs may increase public support for efforts to reduce nutrient pollution in Utah.
- We anticipate that EPA's Office of Water will soon be providing a national update on nutrient pollution reduction efforts across the country and reiterating EPA support for those efforts.
- Region 8 remains committed to continuing to provide technical and financial support to Utah on nutrient issues. We are continuing to provide some analytical support for HABs sampling and we encourage Utah to continue to identify high-priority nutrient technical assistance need.

- Our two acting program directors for water have committed to increasing regular communication with state water directors on nutrients and other high-priority issues. This will help ensure that states are informed in a timely way regarding EPA activities at the regional and national level, such as the planned proposal of nitrogen and phosphorus criteria for lakes and reservoirs

WQ: 6 Utah's draft of an expedited settlement agreement approach to water quality violations: Walt Baker/Suzanne Bohan

Topic: Utah's draft of an expedited settlement agreement approach to water quality violations

As part of the FY13 State Review Framework review, UDWQ committed to begin developing an expedited settlement agreement process in FY15. UDWQ has since been working on this process to be able to quickly address violations at construction stormwater sites. The process would also give repeat violators a break on the penalty for quickly addressing issues. The EPA is supportive of this process.

WQ7: Utah's Technology Based Phosphorus Effluent Limit Rule: Walt Baker/Sarah Bahrman

Topic: Utah Nutrient strategy and EPA's Role/Perspective/Position

Utah's Technology Based Phosphorus Effluent Limit Rule and possible upcoming legislative challenges to it.

Background:

The Division of Water Quality has raised concerns that, since EPA released the Stoner memo in 2011, continued strong EPA leadership on nutrients has been muted or missing. The feel this has left the states that stepped up and took significant actions to address nutrients in a vulnerable position in the face of strong pushback from dischargers, the agricultural community and other stakeholders.

- One concern recently expressed by the Director of DWQ involved the lack of communication regarding upcoming EPA proposal of numeric nutrient criteria for lakes and reservoirs.
- HQs is working on developing criteria for lakes/reservoirs that will complement (not replace) the existing 304(a) criteria. The proposed criteria are being derived using data from the National Lakes Assessment which is more temporally limited than most state datasets. HQs considers the 2016 values as "new and improved" since they are more strongly tied to designated uses than the 2001 ecoregional criteria. There has been **no** discussion of promulgation within EPA. If finalized, as with the previous 304(a) nutrient criteria, these values are intended to offer a frame of reference for states as they develop final numeric nutrient criteria.
- To date, HQs held a June webinar to describe the analytical methods used to derive the proposed numeric nutrient criteria. It is our understanding that this project will also be discussed during the upcoming ACWA meeting. Stakeholders will also have an opportunity for review and comment when the document is released in the Federal Register.

Key RA Messages

- Region 8 is appreciative and supportive of UDEQ's progress in reducing nutrient pollution.
  Region 8 has worked to support Utah over the past several years as the state has developed its nutrient strategy. UDEQ is making excellent progress, including adoption of a technology-based total phosphorus limit for permits, development and implementation of a methodology using their narrative standards to identify water quality impairments from harmful algal blooms, the implementation of a new Nonpoint Source Management Plan, and a number of other efforts.
- We recognize that some of these efforts have been a heavy lift in light of stakeholder concerns, and hope that the recent HABs may increase public support for efforts to reduce nutrient pollution in Utah.

- The Beauvais memo planned to be released on August 2 reiterates EPA's commitment to national progress on nutrient pollution. Region 8 is considering how to build upon this national communication to further recognize and highlight the progress made in our states.
- Region 8 remains committed to continuing to provide technical and financial support to Utah on nutrient issues. We are continuing to provide some analytical support for HABs sampling and we encourage Utah to continue to identify high-priority nutrient technical assistance need.
- Our two acting program directors for water have committed to increasing regular communication with state water directors on nutrients and other high-priority issues. This will help ensure that states are informed in a timely way regarding EPA activities at the regional and national level, such as the planned proposal of nitrogen and phosphorus criteria for lakes and reservoirs

(NOTE: This item is contingent on the release of the Office of Water nutrient reduction memo planned for release on August 2. HQs has indicated the memo release may be delayed.)

Drinking Water: Ken Bousfield (10 minutes)

DW1: Utah's approach to addressing lead contamination Issues: Ken Bousfield/Sarah Bahrman

Topic: Implementation of the Lead and Copper Rule in Utah

Background:

Nationally, EPA has been reviewing state implementation of the Lead and Copper Rule to ensure state practices are consistent with the federal regulation, and to encourage states to go beyond the federal requirements to protect children's health. As part of the effort, EPA Region 8 staff:

- Reviewed responses to narrative questions from each state.
- Reviewed information about each public water system with an action level exceedance (ALE) between October 1, 2012 and October 1, 2015. There were 14 systems in Utah on this list.
- Reviewed state response to Joel Beauvais letter.

Key RA Messages:

- EPA Region 8 really appreciates the responsiveness of the Utah DEQ's Division of Drinking Water (DDW) to the Agency's requests for information about state implementation of the lead and copper rule. We realize this is an extremely hectic time in drinking water programs due to emerging contaminant challenges, newly promulgated rules, and other important implementation issues. However, a closer examination of implementation of the lead and copper rule is vital given the high lead concentrations that were found in the City of Flint's water supply, and the potential for this situation to arise in other locations. We thank you for your commitment to this effort, and the time that you and your staff have dedicated in responding to EPA, as well as your own efforts to proactively enhance the state's implementation of this rule.

- We'd like to commend you and your staff for the following work that you have accomplished, or are in the process of undertaking, to strengthen the DDW's implementation of the lead and copper rule. Many of these actions go above and beyond what the rule requires.
  - Providing workshops in coordination with the Rural Water Association of Utah to assist systems in preparing updated sample site plans for lead and copper

- Increasing transparency on lead by providing information on the DEQ's homepage about lead results in drinking water as well as frequently asked questions about lead, its risks, how to minimize exposure.
- Coordinating with the Department of Health to conduct outreach to schools to raise awareness about lead and provide information about voluntary sampling in the absence of funding
- Reaching out to laboratories in the state to encourage the dissemination of a consistent message on sampling protocols state-wide

Contacts: Kendra Morrison, State Oversight Manager – Drinking Water, 312-6145; Bob Clement, Lead and Copper Rule Review Team, 312-6653; Sarah Bahrman, Acting Water Program Director, 312-6243.

Air Program

AP1: State Implementation Plan (SIP) for Utah PM_{10} Maintenance Plans and Part H; Salt Lake County, Utah County, and Ogden City Nonattainment Areas.

Background:
Utah submitted re-designation requests, maintenance plans, and revisions to Part H for the Salt Lake County, Utah County and Ogden City PM10 nonattainment areas on September 2, 2005. Region 8 proposed to partially approve and partially disapprove the PM_{10} SIP submittals for the three nonattainment areas on December 1, 2009 due to several approval issues: 1) Part H revisions made some of the source emission limits less stringent than limits used to model attainment; 2) deficient emissions inventories and modeling; and 3) Salt Lake County monitors showed violations of the PM_{10} NAAQS in every three-year period from 2001 to 2008 and Utah County had a violation in 2008.

The Air Program had a December 1, 2011 consent decree deadline to finalize our action on Utah's PM_{10} re-designation/maintenance plan SIPs. Before EPA could finalize the action, Utah withdrew the submittal on October 7, 2011 because the state did not want EPA disapproving any portion of these SIP submittals.

Amanda Smith, Utah's Director of Environmental Quality requested to meet with Region 8 concerning a lawsuit filed against Utah by Utah Physicians for failure to issue Title V permits to some of the major sources within the three PM_{10} nonattainment areas. Issuance of Title V permits to some of these major sources had been on hold because Utah's current new source review construction permits for these sources allow less stringent emission limits than what EPA approved in Utah's PM_{10} attainment SIPs. These revised emission limits are due to modifications made by the major sources over the past 20+ years. We had advised Utah that if they were to propose the Title V permits that incorporate the less stringent limits rather than the PM_{10} attainment SIP limits, we would have to object on the basis that the proposed Title V permits fail to incorporate all underlying applicable requirements.

On December 17, 2014 the following managers from Utah and Region 8 met:

Utah	Region 8
Amanda Smith – DEQ Director	Joan Card -
Bryce Bird – Air Program Director	Callie Videtich – Acting OPRA ARA
Dave McNeill – SIP Manager	Carl Daly – Air Director
	Monica Morales – AQP Unit Chief

Utah requested that Region 8 work with them to revise the state's PM_{10} maintenance plans and Part H emission limits, so EPA could approve the Part H limits and Utah would then be able to issue the outstanding Title V permits. Utah had entered into a settlement agreement that required the state to submit revised SIPs to EPA by December 2015.

Based on management agreements made during the December 17, 2014 meeting, in January 2015, Utah and Region 8 Air Program staff began working together to revise the maintenance plans for the three nonattainment areas and Part H. From this collaboration, Utah submitted a maintenance plan and revised the emission limits section of their SIP (Part H) for all three PM_{10} nonattainment areas on January 4, 2016.

Based on the Air Program's review of the maintenance SIPs and Part H revisions, Utah needs to require operation of a baghouse at Kennecott's Copperton concentrator and delete a reference to a New Source Performance Standard. This requires a SIP revision. We are also still discussing internally (EPA-only) which monitoring data year Utah should use to demonstrate maintenance out for 10 years. Unclear yet if this year needs to be in the SIP or not.

Key RA Messages:

- We heard from Utah DAQ staff that the PM_{10} SIP revision for Kennecott would be submitted to us by December 2016.
- Based on that schedule, we can propose approval of Utah's PM_{10} maintenance SIPs and Part H revisions in January 2017.
- We will start drafting our proposed rulemaking in early FY2017 and plan to have it ready to add the Kennecott revision once the state submits the SIP to us in December.

Contact: Monica Morales, 303-312-6936

AP2: Federal Implementation Plan for Existing Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah (U&O Reservation)

Background: EPA Region 8 is proposing to promulgate a Federal Implementation Plan (FIP) under the Clean Air Act (CAA) that is specific to Indian country within the U&O Reservation. In the FIP, the EPA proposes to regulate volatile organic compound (VOC) emissions from existing sources in the production and natural gas processing segments of the oil and natural gas sector that are located on Indian country lands within the U&O Reservation in the Uinta Basin.

Ozone levels in the Uinta Basin have exceeded the ozone standard numerous times and represent a serious public health concern. Approximately 98 percent of VOC and 60 percent of NOx emissions released in the Uinta Basin are from existing oil and natural gas production operations. Furthermore, approximately 78 percent of the Basin's oil and natural gas sector sources are on Indian country lands within the U&O Reservation and have no air emissions control obligations. The requirements in this FIP are intended to address two concerns: compromised air quality in the Uinta Basin, and inconsistent regulatory requirements across Indian country and State of Utah jurisdictions.

The EPA proposes to establish federally enforceable requirements for owners and operators of existing oil and natural gas sources to reduce the VOC released during the production (and storage, which is part of production) of hydrocarbon reservoir fluids, before fluids are transferred off site for sale or treatment, as well as the processing of natural gas. This rule will be implemented by us (or by the Ute Indian Tribe, if delegated the authority to do so) until replaced by an EPA-approved Tribal Implementation Plan (TIP).

The proposed rule requirements are generally consistent with other Region 8 states' requirements for crude oil, condensate, and produced water storage tanks, glycol dehydrators, pneumatic pumps, closed-vent systems, enclosed combustors and utility flares, pneumatic controllers, tank truck loading and unloading, and equipment leak detection and repair. However, we are proposing levels of control that protect air quality and seek primarily to make requirements across the Uinta Basin consistent. Therefore, the requirements in the proposed rule most closely reflect Utah Division of Air Quality requirements for existing oil and natural gas sources in the Uinta Basin. Specifically the EPA intends to propose the following requirements:

- Retrofit of storage tanks, glycol dehydrators and pneumatic pumps to achieve at least 95% VOC reduction through combustion of gaseous emissions;
- Fugitive emissions inspections and repair consistent with EPA's standards for new and modified oil and natural gas sources;
- Retrofit of any high-bleed pneumatic controllers to low or no-bleed controllers;
- Loading and unloading of storage tanks to and from tanker trucks using submerged filling;
- Installation of automatic ignition devices on any existing combustors not subject to the requirement to control emissions from storage tanks, glycol dehydrators and pneumatic pumps.

Rule was accepted by OMB for review on June 22, 2016. OMB has up to 90 days to review the draft proposal. On July 26, 2016 the Air Program received 90+ comments from OMB that OMB received during its inter agency review process required under Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review). The Air Program working with Headquarters is evaluating and preparing responses to the comments over the next couple of weeks.

Key RA Messages:

- The proposed rule was accepted by OMB for review on June 22, 2016. OMB has up to 90 days to review the draft proposal. We still hope to finalize the FIP for existing sources before the end of the calendar year.
- We met with members of the Western Energy Alliance (WEA – XTO Energy, QEP Resources, Cresent Point Energy, LINN Energy, Newfield and Bill Barrett) on July 26th to respond to several questions they had asked regarding the draft FIP. Some of the questions/concerns we heard from WEA are:
    - We again highlighted for WEA the purpose of the FIP is to create level regulatory requirements in Indian country with those on state lands in the Uinta Basin, as we had noted during the stakeholder meetings with WEA and others.
    - WEA asked if the 2014 Uinta Basin emissions inventory was used to develop the draft FIP. We responded "no" for the draft rule because the information was not available and that we will use the 2014 emissions inventory data for the final rule.
    - Concern about the timing for compliance and missing an opportunity during budget planning for FY2017 to account for the costs of controls.
    - Sources can get Utah minor source permits to limit production, but concern if EPA has a synthetic minor mechanism to limit production and a source can avoid being subject to the FIP.

Only if asked, a reminder why EPA is working on a proposed FIP.

- Development of a Reservation-specific FIP will accomplish four important goals in the Uinta Basin.
    - First, the FIP would reduce VOC emissions from existing oil and natural gas sources.
    - Second, the FIP would be consistent with Utah's requirements for existing oil and natural gas sources on state land and create a level playing field for industry.
    - Third, given the current compromised air quality in the Uinta Basin, having enforceable restrictions in place to reduce emissions from existing sources will help industry demonstrate that new proposed

sources will not cause or contribute to exceedances of the ozone standard, thus allowing new sources of emissions within Indian country of the U&O Reservation.

- Fourth, the FIP will allow emission reductions in the basin as soon as possible and in advance of a non-attainment designation process. If the Uinta Basin is designated non-attainment, then implementing the FIP sooner rather than later will help to get VOC reductions and make attainment by 2020 more likely.

Contact: Monica Morales, 312-6936 or Claudia Smith, 312-6520

RCRA Background Information – Not on Agenda

RCRA: Utah House Bill 258

Background:

- EPA began working with the state in February 2016 on House Bill 258 which would have rendered the state's authorized RCRA program less stringent and less protective than the federal program. EPA concerns were documented in a series of letters to the state. The legislation passed but was subsequently vetoed by the Governor who cited the EPA comment letters.
- Over the next few months, the state and EPA attempted to develop a "fix" that would address the metal recycling industry concerns but industry did not accept any of the approaches developed by the state.
- In early June the Institute of Scrap Recycling Industries (ISRI) met with Governor Herbert. The Governor then spoke with the EPA Administrator who agreed to a meeting with industry representatives.
- On July 6, 2016, Robin Wiener, President of ISRI, and others met with Mathy Stanislaus, Barnes Johnson (ORCR Office Director) and Betsy Devlin (ORCR Division Director). Darcy O'Connor and Mike Roach from EPA R8 participated via teleconference.
- Follow-up discussions between HQ and R8 are planned for the week of August 2 and additional communications with the state will take place shortly thereafter.

Key RA Messages:

- R8 appreciates the good communication and coordination with UDEQ and the positive working relationship that our RCRA Program shares with the state's Division of Waste Management and Radiation Control. We look forward to working with the state in the future to ensure resolution of all issues at hand.

Contact: Nancy Morlock, OPRA/RCRP, 312-6421

Water Background Information – Not on the Agenda

WQB1: Mercury Assessment of Great Salt Lake

Background:

- The Great Salt Lake (GSL) is a unique, environmentally significant resource that requires special efforts for proper assessment and protection. Currently, the only numeric criterion applicable to the GSL is a selenium criterion. A narrative standard otherwise applies but has been difficult for the state to interpret given the unique characteristics of the Lake (e.g., hypersaline conditions; very shallow). Farmington Bay (an arm of the Great Salt Lake) receives wastewater effluent from dischargers surrounding Salt Lake City.
- Stakeholders have repeatedly raised concerns about mercury levels measured in the open water of GSL and in the muscle of ducks being hunted in the area.
- EPA has been working with the state to complete an assessment for the Lake since 2006.
- In 2012, EPA partially approved Utah's 2008/2010 303(d) list and deferred action on UDEQ's decision not

to assess data from the GSL and instead place GSL into category 3 in their Integrated Report (category 3 = insufficient information for an assessment determination). That deferral is still in effect.

- At that time, R8 committed to gather and review all readily available data to determine if a mercury assessment of the lake was possible.
- R8 has completed several steps in the assessment process. These include the following:
    - Development of a draft mercury benchmark document that provides the rationale for selection of mercury thresholds against which R8 may compare available mercury data from GSL.
    - Completion of an external peer review of the mercury benchmark document.
    - Development of a draft response to comments documents for the external peer review document.
    - Completion of a review of the mercury benchmark document by UDEQ.
    - Development of a draft response to comments to UDEQ's input.
    - Update of the draft mercury benchmark document given the input from the external peer reviewers and UDEQ.
    - Assembly and review of available mercury data for GSL.
    - Development of a draft assessment report comparing available mercury data against the mercury benchmarks.
- Next steps: R8 intends to initiate a peer review of the draft mercury assessment report to seek additional technical input on the draft document in 2016.

Key RA Messages

- The External Peer Review of the Mercury Benchmark document is completed.
- We recognize that UDEQ's priority for GSL at this time in not mercury and there is some disagreement with the benchmarks that R8 has selected for the assessment. However, the External Peer reviewers generally supported the EPA proposed benchmarks and methodology.
- Given the significance of this assessment, Region 8 is recommending review of the assessment by EPA's National Science Advisory Board as an additional peer review requirement prior to taking a final agency action – this would not be expected to occur prior to 2018.
- EPA will submit the response to UDWQ's comments on the benchmark document in the near future.

Contact: Sandra Spence 303-312-6947

WQB2: Utah's Stormwater Retention Standard

Background:

On July 26, 2016, EPA Region 8 staff spoke to Walt Baker (and staff) regarding this matter and provided the requested information on other State stormwater retention standards. During this call, EPA and the State agreed upon a path forward for Utah's stormwater retention standard in their final Phase II Municipal Separate Storm Sewer (MS4) Permit. Alan or Walt will want to have a discussion on this topic during the meeting to determine how the other States (CO, MT and ND) dealt with implementation of their retention standards.

Utah's Phase II MS4 permit (permit) went into effect on March 1, 2016. Currently, the permit requires by September 1, 2016, that new development or redevelopment projects (greater than one acre, including projects less than one acre that are part of a larger common plan of development) retain on-site rainfall events equal to the 90th percentile rainfall event (equivalent to 0.6" of rain in Utah).

Recently, the local Utah Homebuilder Association and the Utah League of Cities have raised concerns with the stormwater retention standard in the permit. According to these organizations, a few Utah MS4s are placing constraints and limitations the on best management practices (BMPs) homebuilders can utilize to comply with the MS4s stormwater retention standard. The homebuilders have raised these concerns with the State and

elevated this issue to the National Homebuilders Association (NAHB). The Region has also coordinated with Headquarters since they too received calls from NAHB regarding Utah's stormwater retention standard.

Key RA Messages:

The Region supports Utah's stormwater retention standard and has been providing assistance to the State to develop a path forward.

- Moving forward, the State will propose to modify the permit to allow for additional time to comply with the retention standard (~2-4 years). The retention standard will not change, only the date to comply with the standard will be modified.
- Delayed implementation (of several years) is typical for new retention standards.
- During this time of delayed compliance, the State will develop a BMP handbook and conduct outreach to MS4s.

Contact: Amy Clark, Wastewater Unit, 312-7014

ECEJ Background Information – Not on the Agenda

ECEJ1: Utah Construction Stormwater

EPA has been conducting construction stormwater inspections in Utah, because UDWQ does not have the resources to meet EPA Compliance Monitoring Strategy goal of 10% of the universe. The EPA appreciates UDWQ's efforts to ensure there is compliance evaluation coverage of the construction stormwater universe.

ECEJ2: Utah Department of Transportation Municipal Separate Storm Sewer System (MS4)

The UDOT MS4 inspection, prompted by the EPA Municipal Infrastructure National Enforcement Initiative, was performed June 17-21, 2013 as part of a joint inspection with the Utah Division of Water Quality (UDWQ). The inspection covered UDOT's permitted MS4 program management, illicit discharge detection/elimination, pollution prevention for municipal operations, construction, post-construction, and monitoring programs. In addition to the on-site inspection, follow-up 308 information request letters were sent to UDOT on March 10, 2014 for additional information needed to complete the inspection. Although this case has been referred to DOJ by EPA and UDWQ will not be involved in the negotiation, the EPA appreciates UDWQ's joint efforts to conduct the inspection and Walt Baker reaching out to UDOT to impress upon them the severity of the findings. Inadequately controlled stormwater discharges from municipal sewer systems introduce a variety of harmful pollutants, including disease causing organisms, metals and nutrients that threaten our communities' water quality and can contribute to disease outbreaks, flooding, stream scouring, and fishing advisories.

ECEJ3: Salt Lake County MS4 Settlement

EPA and the State of Utah jointly settled a judicial case with Salt Lake County, Utah (the County) for municipal separate storm sewer system (MS4) violations by the County, which was entered by the court on 4/6/16. The EPA appreciates the UDWQ's dedication in working together to reach the settlement and address the water quality impacts. Under the consent decree, the County will take corrective actions to revise and fully implement its Storm Water Management Program. The County also agreed to locate, investigate and eliminate sources of non-stormwater discharges to the MS4, monitor for impacts to water quality, and ensure that permanent stormwater control structures are properly maintained by their owners. The value of this injunctive relief is estimated to be $274,770 annually, primarily directed toward personnel resources; included in the settlement is a civil penalty of $250,000 that was divided equally between the U.S. and the State of Utah.